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UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

13)
14 THOMAS E. PEREZ, Secretary of Labor,)
United States Department of Labor,)
15) Case No.: 14-4786
16 Plaintiff,)
v.) COMPLAINT FOR VIOLATIONS OF THE
17) FAIR LABOR STANDARDS ACT
BRETANO HOUSE LLC, a limited liability)
corporation, and CHRISTOPHER FRIES, an)
individual,)
18)
19 Defendants.)
20)
21)

1 (“FLSA” or the “Act”), 29 U.S.C. §§ 206, 207, 211, 215(a)(2) and 215(a)(5), and to recover
2 unpaid minimum wage and overtime compensation owed under the FLSA to present and former
3 employees of the Defendants listed by name on the attached Exhibit A to this Complaint,
4 together with liquidated damages, pursuant to FLSA Section 16(c), 29 U.S.C. § 216(c).

5 2. Jurisdiction of this action is conferred upon the Court by Sections 16 and 17 of
6 the FLSA, 29 U.S.C. §§ 216, 217; by 28 U.S.C. § 1331 (federal question); and by 28 U.S.C. §
7 1345 (United States as plaintiff).

8 3. Venue lies in the United States District Court for the Northern District of
9 California, pursuant to 28 U.S.C. § 1391(b), as a substantial part of the events or omissions
10 giving rise to the instant claims occurred in this district.

12 4. On information and belief, at all times material hereto, Defendant Bretano House,
13 LLC, is and has been a California limited liability corporation licensed to do business in the State
14 of California, within the jurisdiction of this Court, where it is and has been engaged in the
15 residential care business.

16 5. On information and belief, at all times material hereto, Defendant Bretano House,
17 LLC is and has been an employer within the meaning of FLSA Section 3(d), 29 U.S.C. § 203(d),
18 in relation to certain employees listed on Exhibit A to this Complaint.

19 6. On information and belief, at all times material hereto, Defendant Christopher
20 Fries has been an employer within the meaning of FLSA Section 3(d), 29 U.S.C. § 203(d), of the
21 workers listed on Exhibit A Complaint. Christopher Fries, who resides within the jurisdiction of
22 this Court, acted directly in the interest of Bretano House, LLC with hiring and firing authority,
23 and also set the wages, hours, and work conditions of the employees who performed work for
24 Bretano House, LLC.

1 9. At all times relevant to this Complaint, Bretano House, LLC has employed
2 employees engaged in commerce or in the production of goods for commerce or in handling,
3 selling or otherwise working on goods or materials that have been moved in or produced for
4 commerce by any person.

5 10. At all times relevant to this Complaint, Bretano House, LLC has been an
6 “enterprise,” as defined in FLSA Sections 3(r), 29 U.S.C. § 203(r), with business activities that
7 are related and performed through unified operation or common control for a common business
8 purpose.

9 11. At all times relevant to this Complaint, Bretano House, LLC has been engaged in
10 the operation of an enterprise whose annual gross volume of sales made or business done was not
11 less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated). As
12 such, Defendants have been an enterprise engaged in commerce or in the production of goods for
13 commerce within the meaning of FLSA § 3(s), 29 U.S.C. § 203(s).

14 12. Defendants, employers subject to the provisions of the Act, have violated the
15 provisions of FLSA Sections 6 and 15(a)(2), 29 U.S.C. §§ 206 and 215(a)(2), by employing
16 employees engaged in commerce or in the production of goods for commerce within the meaning
17 of the FLSA, or employed in an enterprise engaged in commerce or in the production of goods
18 for commerce, within the meaning of FLSA § 3(s), 29 U.S.C. § 203(s), at wage rates less than
19 the applicable federal minimum wage.

20 13. Defendants, employers subject to the provisions of the Act, violated the
21 provisions of FLSA Sections 7 and 15(a)(2), 29 U.S.C. §§ 207 and 215(a)(2), by employing
22 employees engaged in commerce or in the production of goods for commerce, within the
23 meaning of the FLSA, or employed in an enterprise engaged in commerce or in the production of
24

1 goods for commerce, within the meaning of Section 3(s) of the FLSA, 29 U.S.C. § 203(s), for
2 workweeks longer than 40 hours without compensating these employees at overtime rates of not
3 less than one and one-half times the regular rates at which they were employed.

4 14. Defendants, employers subject to the provisions of the Act, violated the
5 provisions of FLSA Sections 11(c) and 15(a)(5), 29 U.S.C. §§ 211(c) and 215(a)(5), by failing to
6 maintain, keep, make available to authorized agents of plaintiff for inspection, transcription
7 and/or copying, and preserve records of their employees and of the wages, hours, and other
8 conditions and practices of employment maintained, as prescribed by the regulations
9 promulgated by the plaintiff pursuant to the authority granted in the FLSA and published at 29
10 C.F.R. Part 516.

11 15. (a) During the relevant statutory period, Defendants repeatedly violated the
12 above-described provisions of the FLSA;

13 (b) Defendants' violations of FLSA Sections 6, 7, 11, and 15 are willful in
14 nature;

15 (c) As a result of the violations of the FLSA, there are unpaid minimum wage
16 and overtime compensation being withheld by the Defendants;

17 (d) Judgment permanently enjoining and restraining such violations of the
18 FLSA is specifically authorized by FLSA Section 17, 29 U.S.C. § 217;

19 (e) Judgment enjoining and restraining any continued withholding of unpaid
20 minimum wage and overtime compensation due under the FLSA is specifically authorized by
21 FLSA Section 17, 29 U.S.C. § 217;

(f) Judgment awarding unpaid back wages due under the FLSA, plus an additional amount, as liquidated damages, that is equal to the amount of the back wages that accrued under the FLSA, is specifically authorized by FLSA § 16(c), 29 U.S.C. § 216(c).

WHEREFORE, cause having been shown, the Secretary prays for a Judgment against Defendants as follows:

(a) For an Order pursuant to Section 17 of the Act, 29 U.S.C. § 217, permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with them from prospectively violating the provisions of Section 15 of the Act, 29 U.S.C. § 215; and

(b) For an Order

(1) pursuant to Section 16(c) of the Act, 29 U.S.C. § 216(c), finding Defendants liable for unpaid minimum wage and overtime compensation due Defendants' employees and for liquidated damages equal in amount to the unpaid compensation found due Defendants' employees listed in the attached Exhibit A for the relevant statutory period (additional back wages and liquidated damages may be owed to certain employees presently unknown to plaintiff for the period covered by this complaint); or in the event liquidated damages are not awarded;

(2) pursuant to Section 17 of the Act, 29 U.S.C. § 217, enjoining and restraining Defendants, their officers, agents, servants, employees and those persons in active concert or participation with defendants, from withholding payment of unpaid back wages found to be due Defendants' employees for the relevant statutory period;

(c) For an Order awarding plaintiff the costs of this action; and

(d) For an Order granting such other and further legal and equitable relief as may be necessary or appropriate.

DATED: October 28, 2014

M. PATRICIA SMITH
Solicitor of Labor

JANET M. HEROLD
Regional Solicitor

SUSAN SELETSKY
FLSA Counsel

By: /s/ Joseph Lake
JOSEPH M. LAKE
Senior Trial Attorney
Attorneys for Plaintiff
United States Department of Labor

1 **EXHIBIT A**

2 AHILLION, NIEVES
3 AMAGAN, MEINCHIN
4 ANGULO, CELIA
5 ANGULO, LEONA
6 AQUINO, CHERRY ANN
7 BANGALE, EDNA
8 BARTOLO, EDGAR
9 BERNARDO, CELIA
10 CABA, MILAGROS
11 CATALCUTAN, ANTOINE
12 DE GUZMAN, BENEDICTO
13 GUIAM, RONN
14 JOVELLANOS, EDEN
15 JUDITH, SISON
16 LAGUITAN, EDITHA
17 LARRAGA, VIRGILIO
18 SANTOS, MARILOU
19 SLEE, FLORHELYN
20 WANG, LISA